

REGULAR MEETING

November 13, 1995

The Regular Meeting of the Annapolis City Council was held on November 13, 1995 in the Council Chamber. Mayor Hopkins called the meeting to order at 7:00 p.m. Alderman DeGraff offered the invocation followed by the Pledge of Allegiance.

Present on Roll Call: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Snowden, Turner, DeGraff, Moyer

Alderman Tullier arrived at 7:04 p.m.

Staff Present: City Attorney Goetzke, Planning and Zoning Director Fogarty, Transportation Director Chase

Alderman Snowden moved to approve the Minutes of October 2, 1995 and October 9, 1995. Seconded. CARRIED on voice vote.

PETITIONS, REPORTS AND COMMUNICATIONS

1. Robert Eades
36 Pleasant Street
Annapolis, Md. 21401

Spoke regarding the Million Man March in Washington, D.C. and Buddy's Crabs and Ribs' midnight alcoholic beverage license.

2. Jerome Sims, Public Relations
Manager and Coordinator
SES Enterprise, Incorporated
No address given.

Spoke regarding the Million Man March in Washington, D.C.

3. Bob Rice
East Street
Annapolis, Md. 21401

Spoke regarding the signage on parking meters.

4. Harold Kaplan
41 Water Street
Annapolis, Md. 21401

Read into the record a letter from Michael Riordan regarding Ordinances O-34-95 and O-35-95.

5. Craig Purcell
259 Hanover Street
Annapolis, Md. 21401

Spoke regarding Ordinances O-34-95 and O-35-95.

ACTION ON APPLICATIONS AND APPEALS

- R-41-95** For the purpose of approving the application of Exxon Company, USA for a conditional use to establish a service station/convenience store located at 1926 West Street in the City of Annapolis, subject to certain conditions; and all matters relating to said conditional use.

Alderman Snowden moved to reconsider Resolution R-41-95. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt R-41-95. Seconded.

Alderman Snowden moved to amend R-41-95 as follows:

On Page 3, amend Paragraph 12 as follows:

12. [Contaminated Soils. Any soils which are disturbed during construction must be screened to determine whether they are contaminated. If contaminated soils are encountered they must be removed and hauled to a certified facility. A field record must be kept on site which contains the screening readings, disposal manifest, etc. and should be provided to the Department of Public Works. A plan of action should be submitted to my office.]

Any soils which are disturbed during construction shall be screened, as required by federal or state law, to determine whether they are contaminated. If contaminated soils are encountered they shall be handled as required by federal or state law. A field record must be kept on site which contains the screening readings, disposal manifest, etc. and copies thereof shall be provided to the Department of Public Works. In addition, a copy of any plan of action required by federal or state law shall be submitted to the Department of Public Works.

Seconded. CARRIED on voice vote.

The main motion, as amended, CARRIED on voice vote.

LEGISLATIVE ACTION

ORDINANCES

- O-93-94** For the purpose of deleting the planned unit development requirement for certain buildings having a floor area ratio grater than two; and all matters relating to said requirement.

There being no voiced objection, O-93-94 was withdrawn.

- O-13-95** For the purpose of authorizing the operation of sidewalk cafes under certain terms and conditions after filing an application with Department of Planning and Zoning and securing a lease from the City for the use of the sidewalk; and all matters relating to said sidewalk cafes.

Alderman Snowden moved to substitute O-13-95 Revised for O-13-95. Seconded. CARRIED on voice vote.

The Economic Matters Committee reported favorably on O-13-95.
The Rules Committees reported favorably on O-13-95 as revised.

Alderman Johnson moved to amend O-13-95 Revised as follows:

No. 1

On Page 2, line 38, strike "OF THREE HUNDRED DOLLARS" and substitute "AS ESTABLISHED BY A RESOLUTION ADOPTED BY THE CITY COUNCIL FROM TIME TO TIME".

Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Hammond, Johnson, Gilmer, Turner
NAYS: Mayor Hopkins, Aldermen Tullier, Snowden, DeGraff, Moyer
DEFEATED: 5-4

Alderman Johnson moved to amend O-13-95 Revised as follows:

No. 2

On Page 3, line 18, strike the comma after the word "CAFE" and substitute a period and strike the remainder of line 18 through and including line 22.

Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Turner
NAYS: Aldermen Gilmer, Tullier, Snowden, DeGraff, Moyer
DEFEATED: 5-4

Following discussion, Alderman DeGraff called the question. Seconded. A ROLL vote was taken:

YEAS: Aldermen Gilmer, Tullier, Snowden, DeGraff, Moyer
NAYS: Aldermen Hammond, Johnson, Turner
ABSTAIN: Mayor Hopkins
CARRIED: 5-3-1

Alderman Snowden moved to adopt O-13-95 Revised on second reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Tullier, Snowden, Turner, DeGraff, Moyer
NAYS: Aldermen Hammond, Johnson
ABSTAIN: Alderman Gilmer
CARRIED: 6-2-1

Alderman Snowden moved to adopt O-13-95 Revised on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Tullier, Snowden, Turner, DeGraff, Moyer
NAYS: Alderman Hammond
ABSTAIN: Alderman Gilmer
CARRIED: 7-1-1

There being no voiced objection, the order of the Agenda was amended.

O-51-95 For the purpose of amending the floor area ratio requirements to allow existing buildings in the Historic District to expand internally; and all matters relating to said requirements.

Alderman DeGraff moved to adopt O-51-95 on first reading. Seconded. CARRIED on voice vote.

Referred to Planning Commission and Rules and City Government Committee.

O-53-95 For the purpose of establishing that the City Council shall establish, by resolution, fares that may be charged by pedicab owners and operators within the City limits; and all matters relating to said fares.

Alderman DeGraff moved to adopt O-53-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Public Safety Committee.

- O-54-95** For the purpose of adopting the BOCA National Building Code (12th Edition) and BOCA National Energy Code (7th Edition), all with amendments; adopting the National Mechanical Code (8th Edition); revising the Fire Prevention Code; amending the adopted Annapolis City Plumbing Code concerning shower and tub valves and the issuing authority and permit terms; and all matters relating to said Codes.

Alderman DeGraff moved to adopt O-54-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Economic Matters Committee and Housing and Human Welfare Committee.

- O-55-95** For the purpose of adopting the NFPA standards 54 ANSIZ 223.1 1992 Edition National Fuel Gas Code with amendments; and all matters relating to said Gas Code.

Alderman DeGraff moved to adopt O-55-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Economic Matters Committee.

- O-56-95** For the purpose of adopting the NFPA70 National Electrical Code (1993 Edition) with amendments; adopting the National Electric Safety Code (1993 Edition); and all matters relating to said Electrical Code.

Alderman DeGraff moved to adopt O-56-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Economic Matters Committee.

- O-57-95** For the purpose of providing that the City Attorney shall present claims on behalf of the City to the Public Safety Disability Retirement Board; providing that the Board shall have jurisdiction over such matters as are assigned to it by the City Code; requiring the chair of the Board to be an attorney admitted to practice in the State of Maryland; and all matters relating to said Board.

Alderman DeGraff moved to adopt O-57-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Rules and City Government Committee.

- O-58-95** For the purpose of authorizing certain civil service employees to receive certain personal leave days; and all matters relating to said personal leave days.

Alderman DeGraff moved to adopt O-58-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Rules and City Government Committee.

- O-59-95** For the purpose of providing a process for responding to citizen complaints in an expeditious and efficient manner; and all matters relating to said process.

Alderman DeGraff moved to adopt O-59-95 on first reading. Seconded. CARRIED

on voice vote.

Referred to the Rules and City Government Committee.

- O-60-95** For the purpose of authorizing an amendment to the Water Service Agreement dated October 23, 1995 between the City of Annapolis and Constellation Bay Ridge Ltd. Partnership (a/k/a Colonial Manor Nursing Home) so as to provide that Constellation Bay Ridge Ltd. Partnership shall pay for water services under said Agreement at the rate for customers within the City; and all matters relating to said Agreement.

Alderman Tullier recused himself due to a possible conflict of interest.

Alderman Turner moved to adopt O-60-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Finance Committee.

- O-61-95** For the purpose of authorizing an amendment to the Water Service Agreement dated October 20, 1995 between the City of Annapolis and St. Anne's Day School so as to provide that St. Anne's Day School shall pay for water services under said Agreement at the rate for customers within the City; and all matters relating to said Agreement.

Alderman Johnson moved to adopt O-61-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Finance Committee.

- O-62-95** For the purpose of clarifying building permit expirations and extensions; and all matters relating to said building permits.

Alderman Turner moved to adopt O-62-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Economic Matters Committee and Environmental Matters Committee.

The regular order of the Agenda was resumed.

- O-34-95** For the purpose of revising and amending certain regulations regarding restaurants in the conservation district; eliminating requirements that certain restaurants in the conservation district close at midnight; clarifying Sections 21.48.090 and 21.52.030; and all matters relating to said regulations.

The Finance Committee reported favorably on O-34-95.

Alderman Turner moved to adopt O-34-95 on second reading. Seconded.

Alderman Snowden moved to amend O-34-95 as follows:

Amendment No. 1

On Page 3, line 5, immediately following "ESTABLISHMENT" strike "AND" and substitute "OR".

Amendment No. 2

On Page 3, line 17, strike beginning with "RESTAURANTS" through and including the period on line 21 and substitute the following:

"RESTAURANTS SERVING ALCOHOLIC BEVERAGES MAY NOT REMAIN OPEN BEYOND 12:00 MIDNIGHT. THE LIMITATION CONTAINED IN THIS SUBSECTION SHALL NOT APPLY TO (I) ANY RESTAURANT OR BAR AUTHORIZED AS OF JUNE 13, 1994 TO REMAIN OPEN BEYOND 12:00 MIDNIGHT AND (II) ANY STANDARD RESTAURANT OR BAR HAVING AN ALCOHOLIC BEVERAGE LICENSE PERMITTING SALES UNTIL MIDNIGHT THAT APPLIED BETWEEN THE DATES OF JANUARY 1, 1993 AND SEPTEMBER 30, 1993 FOR AUTHORITY TO REMAIN OPEN BEYOND 12:00 MIDNIGHT."

Amendment No. 3

On Page 3, line 23, strike beginning with "ANY" through and including the period on line 27 and substitute the following:

"ANY STANDARD RESTAURANT HAVING AN ALCOHOLIC BEVERAGE LICENSE PERMITTING SALES UNTIL MIDNIGHT THAT APPLIED BETWEEN THE DATES OF JANUARY 1, 1993 AND SEPTEMBER 30, 1993 FOR AUTHORITY TO REMAIN OPEN BEYOND 12:00 MIDNIGHT MAY EXPAND ITS HOURS OF OPERATION UNTIL 2:00 A.M. PURSUANT TO SECTION 21.48.090 AND SHALL ALSO BE PERMITTED TO EXPAND ITS BUSINESS TO INCLUDE A BAR, DANCING AND LIVE ENTERTAINMENT, ALL AS PERMITTED USES."

Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Tullier, Snowden, Turner, DeGraff
NAYS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer
ABSTAIN: Alderman Moyer
DEFEATED: 4-4-1

O-34-95 died for lack of a motion.

(NOTE: O-34-95 was taken up later in this meeting to correct a procedural error.)

O-35-95 For the purpose of revising restrictions regarding restaurants serving alcoholic beverages in the conservation districts; and all matters relating to said restrictions.

Alderman Moyer moved to adopt O-35-95 on second reading. Seconded.

Alderman DeGraff moved to amend O-35-95 as follows:

Amendment No. 1

On Page 3, line 3, immediately following "ESTABLISHMENT" strike "and" and substitute "OR".

Amendment No. 2

On Page 3, line 34 add the following:

"C. A COMMITTEE SHALL BE ESTABLISHED AND COMPRISED OF REPRESENTATIVES OF THE RESTAURANT INDUSTRY AND DOWNTOWN RESIDENTS TO MONITOR AND MITIGATE IMPACTS ASSOCIATED WITH RESTAURANTS AND BARS IN THE HISTORIC DISTRICT."

Amendment No. 3

On Page 3, line 34 add the following:

"D. IN COOPERATION WITH THE CITY OF ANNAPOLIS POLICE DEPARTMENT, A COMMUNITY POLICING PROGRAM INVOLVING DOWNTOWN RESIDENTS AND BUSINESS LEADERS SHALL BE ESTABLISHED."

Amendment No. 4

On Page 3, line 34 add the following:

"E. A SYSTEM OF PENALTIES SHALL BE ENFORCED HOLDING RESTAURANT AND BAR OWNERS LIABLE FOR PUBLIC DISTURBANCES CAUSED BY THEIR PATRONS."

Amendment No. 5

On Page 3, line 34 add the following:

"F. THE DEPARTMENT OF PUBLIC WORKS SHALL IMPLEMENT A SYSTEM FOR ROUTING TRAFFIC AROUND RESIDENTIAL STREETS BETWEEN THE HOURS OF 12:00 A.M. AND 2:00 A.M."

Amendment No. 6

On Page 3, line 34 add the following:

"G. RESTAURANTS AND BARS WITH A 2:00 A.M. CLOSING MUST KEEP THEIR KITCHEN OPEN AND HAVE FOOD SERVICE AVAILABLE UNTIL 1:30 A.M."

Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Hammond, Johnson, Tullier, Snowden, Turner, DeGraff, Moyer

NAYS: Mayor Hopkins, Alderman Gilmer

CARRIED: 7-2

Alderman Moyer moved to adopt O-35-95 as amended on second reading.

Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen DeGraff, Moyer

NAYS: Aldermen Hammond, Johnson, Gilmer, Tullier, Snowden, Turner

ABSTAIN: Mayor Hopkins

DEFEATED: 6-2-1

O-38-95 For the purpose of revising the procedure for the suspension and revocation of certain rental unit and roominghouse licenses; deleting the revocation hearing before the director of public works; establishing an appeals process; and all matters relating to said appeals procedure.

Alderman Turner moved to adopt O-38-95 on second reading. Seconded.

Alderman Johnson presided over the meeting from 10:25 p.m. to 10:30 p.m.

Following discussion, a ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier,
Snowden, Turner, Moyer
CARRIED: 8-0

Alderman Johnson moved to adopt O-38-95 on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier,
Snowden, Turner, Moyer
CARRIED: 8-0

O-39-95 For the purpose of authorizing the installation and operation of sidewalk cafes as a conditional use on certain City sidewalks under certain terms and conditions; revising open container provisions to allow possession and consumption of alcoholic beverages on sidewalk cafes; and all matters relating to said sidewalk cafes.

Alderman Turner moved to withdraw O-39-95. Seconded. CARRIED on voice vote.

O-41-95 For the purpose of clarifying and revising the procedures pursuant to which permanent status civil service employees may appeal to the Civil Service Board disciplinary action taken against such employees; and all matters relating to said procedures.

Alderman Snowden moved to substitute O-41-95 Revised for O-41-95. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-41-95 Revised on second reading. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-41-95 Revised on third reading. Seconded. CARRIED on voice vote.

O-43-95 For the purpose of clarifying the procedures for the filling of vacancies within the civil service; and all matters relating to said clarification.

There being no voiced objection, O-43-95 was postponed to the December 11, 1995 meeting.

O-44-95 For the purpose of prohibiting litter on certain premises; establishing for the removal of said litter; increasing the fine for littering; and all matters relating to said littering.

Alderman Turner moved to adopt O-44-95 on second reading. Seconded. CARRIED on voice vote.

Alderman Johnson moved to adopt O-44-95 on third reading. Seconded. CARRIED on voice vote.

O-45-95 For the purpose of changing the time of the regular monthly meetings of the City Council; and all matters relating to said time change.

Alderman Turner moved to adopt O-45-95 on second reading. Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Hammond, Gilmer, Turner, DeGraff, Moyer
NAYS: Mayor Hopkins, Aldermen Johnson, Tullier, Snowden
CARRIED: 5-4

Alderman Turner moved to adopt O-45-95 on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Hammond, Gilmer, Turner, DeGraff, Moyer
NAYS: Mayor Hopkins, Aldermen Johnson, Tullier, Snowden
CARRIED: 5-4

O-48-95 For the purpose of including a certain street within Special Residential Parking District No. 3; and all matters relating to said parking district.

Alderman Turner moved to adopt O-48-95 on second reading. Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Hammond, Johnson, Tullier, Turner, DeGraff, Moyer
NAYS: Mayor Hopkins, Alderman Snowden
ABSTAIN: Alderman Gilmer
CARRIED: 6-2-1

Alderman Tullier moved to adopt O-48-95 on third reading. Seconded. CARRIED on voice vote.

O-52-95 For the purpose of providing for the designation of revitalization areas which shall qualify properties located therein to pay capital facility charges on a deferred basis; and all matters relating to said revitalization areas.

Alderman Snowden moved to adopt O-52-95 on second reading. Seconded.

Alderman Johnson moved to amend O-52-95 as follows:

Amendment No. 1

On Page 3, line 12 immediately following the colon, strike beginning with "FIFTY" through and including "YEAR" on line 15 and substitute the following:

"FORTY PERCENT PRIOR TO THE ISSUANCE OF ANY PERMIT; TWENTY PERCENT PRIOR TO THE FIRST ANNIVERSARY OF THE EARLIEST PERMIT ISSUANCE; TWENTY PERCENT PRIOR TO THE SECOND ANNIVERSARY OF THE EARLIEST PERMIT ISSUANCE; FINAL TWENTY PERCENT PRIOR TO THE THIRD ANNIVERSARY OF THE EARLIEST PERMIT ISSUANCE."

Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-52-95 as amended on second reading. Seconded. CARRIED on voice vote.

Alderman DeGraff moved to adopt O-52-95 as amended on third reading. Seconded. CARRIED on voice vote.

O-34-95 For the purpose of revising and amending certain regulations regarding restaurants in the conservation district; eliminating requirements that certain restaurants in the conservation district close at midnight; clarifying Sections 21.48.090 and 21.52.030; and all matters relating to said regulations.

(Note: It was brought to the attention of the Council that a procedural error occurred earlier in the meeting in that a motion to adopt on second reading was still pending.)

A ROLL CALL vote was taken on the main motion.

YEAS: Aldermen Tullier, Snowden, DeGraff
NAYS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Turner
ABSTAIN: Alderman Moyer
DEFEATED: 5-3-1

RESOLUTIONS

R-46-95 For the purpose of establishing a process for responding to citizen complaints; and all matters relating to said process.

Alderman Snowden moved to adopt R-6-95. Seconded. CARRIED on voice vote.

R-47-95 For the purpose of approving, subject to certain conditions, the final plat for "Parkway, Section III", a subdivision on Hilltop Lane in the City of Annapolis; and all matters relating to said plat.

There being no voiced objection, R-47-95 was postponed to the December 11, 1995 meeting.

R-48-95 For the purpose of creating a C2 Conservation Business District Advisory Committee to determine what changes, if any, have occurred in the C2 District since the adoption of the Ward One Sector Study in July, 1993; and all matters relating to said Committee.

Resolution R-48-95 was withdrawn by its sponsor.

BUSINESS AND MISCELLANEOUS

1. Request from Harbor Cruises - New Year's Eve Cruise on First Night in Annapolis

Alderman Snowden moved to approve the request from Harbour Cruises dated 9/6/95 for New Year's Eve cruises on First Night in Annapolis. Seconded. CARRIED on voice vote.

2. Civil Service Minutes of 8/28/95 (Request for new position referred to the Finance Committee on 10/9/95)

Alderman Snowden moved to approve that portion of the Civil Service Board Minutes of 8/28/95 regarding the Executive Secretary Position in the Mayor's Office. Seconded. CARRIED on voice vote.

3. Economic Matters Committee Minutes of 10/25/95

Alderman Snowden moved to approve the Economic Matters Committee Minutes of 10/25/95. Seconded. CARRIED on voice vote.

Alderman DeGraff left at 11:20 p.m.

4. Finance Committee Minutes of 11/2/95

Alderman Snowden moved to approve the Finance Committee Minutes. Seconded.

Alderman Turner moved to vote separately on Item No. 5 - "Civil Service Board Minutes of 8/28/95 - Executive Secretary Position in the Mayor's Office". Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Hammond, Turner

NAYS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Moyer
DEFEATED: 6-2

The main motion CARRIED on voice vote.

5. Payment of Monthly Bills

Alderman Snowden moved to pay the monthly bills. Seconded. CARRIED on voice vote.

6. Appointments

Alderman Turner moved to confirm the Mayor's appointments of the following named persons as set forth in Memoranda from Mayor Alfred A. Hopkins dated 11/3/95, 11/6/95 and 11/9/95:

Environmental Commission: Jennifer L. Bornemann
Robert A. Haberlein, Ph.D.

Human Relations Commission: Rico L. Martin

Maritime Advisory Board: Scott H. Allan

**Police and Fire Retirement
Plan Commission:** Carl A. TenHooopen
Joseph Semo

Seconded. CARRIED on voice vote.

6. Proposed motion for Closed Session on 11/27/95 at 6:00 p.m.

Alderman Turner moved to have a closed session on Monday, November 27, 1995 at 6:00 p.m. in the council chamber in accordance with Maryland State Government Article Sections:

10-508(a)(7) - consult with counsel to obtain legal advice; and
10-508(a)(8) - consult with staff, consultants, or other individuals about pending or potential litigation.

to discuss the following:

1. City of Annapolis v. Joseph L. Cardinale & Sons, Inc. and Fidelity and Deposit Company of Maryland: Settlement offer.
2. Naval Academy Sewer Matter: Status report.
3. Cable Agreement: Clarification of negotiations.
4. FY 6 tax differential discussions: Report on advice of counsel.
5. FY96 County property taxes: Report on advice of counsel.
6. City ownership of below-ground rights-of-way: Report on advice of counsel.

Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Hammond, Johnson, Gilmer, Tullier, Turner, Moyer

NAYS: Alderman Snowden

CARRIED: 7-1

Upon motion duly made, seconded and adopted, the meeting was adjourned at 11:42 p.m.

**Patricia L. Bembe, CMC/AAE
City Clerk**